

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: 12/2/09

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MICHAEL RICCO,

Petitioner,

-against-

JOHN BURGE,

Respondent.
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06 Civ. 4902 (RJH)(THK)

ORDER

On December 31, 2008, Magistrate Judge Theodore H. Katz issued a Report and Recommendation ("Report") recommending that the Court deny Petitioner's petition for a writ of habeas corpus, pursuant to 28 U.S.C. § 2254, seeking an order vacating a judgment of conviction. To date, the Court has neither received any objections to the Report nor any other communication, such as a letter requesting an extension of time in which to file objections, from Petitioner.

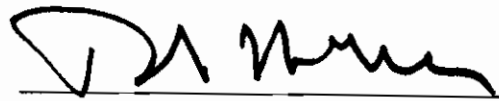
The district court adopts a Magistrate Judge's report and recommendation when no clear error appears on the face of the record. See Nelson v. Smith, 618 F. Supp. 1186, 1189 (S.D.N.Y. 1985). However, the court is required to make a de novo determination of those portions of a report to which objection is made, 28 U.S.C. § 636(b)(1)(C), by reviewing "the Report, the record, applicable legal authorities, along with Plaintiff's and Defendant's objections and replies." Badhan v. Lab. Corp. of Am., 234 F. Supp. 2d 313, 316 (S.D.N.Y. 2002). The court may then accept, reject, or modify in whole or in part recommendations of the Magistrate Judge. See Nelson, 618 F. Supp. at 1189. If a party fails to object to a report within 10 days of being served with the report, that party waives

their right to object and appellate review of the district court's decision adopting the report, absent unusual circumstances, is precluded. See United States v. Male Juvenile, 121 F.3d 34, 38 (2d Cir. 1997).

The Court finds that no clear error appears on the face of the record and hereby adopts the Report. The Clerk shall close this case.

SO ORDERED.

Dated: New York, New York
November 30, 2009

A handwritten signature in black ink, appearing to read 'Richard J. Holwell', written over a horizontal line.

Richard J. Holwell
United States District Judge